

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: ASBESTOS PRODUCTS
LIABILITY
LITIGATION (NO. VI)

Civil Action No. MDL 875

Held v. A.C. and S. Inc. et al

E.D. PA Case No. 10-CV-67814

Plaintiff's Motion to Voluntarily Dismiss Action Pursuant to Fed. R. Civ. P. 41(a)(2)

Plaintiff, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, moves to dismiss this action without prejudice. In support of the motion, plaintiff states:

1. Plaintiff filed the instant case on January 3, 2000, in the Eastern District of Wisconsin.
2. The complaint alleged that plaintiff developed "pleural thickening", a non-malignant condition.
3. On June 19, 2013, the court entered an order granting a motion for partial summary judgment on claims for lung cancer which the court found had not been timely pled. (ECF Doc. 200.)
4. Plaintiff filed an interlocutory appeal of the June 19, 2013, order to the Third Circuit which remains pending subject to the Court of Appeals taking jurisdiction over a judgment which was not final as to all claims.¹
5. Plaintiff agrees to dismissal of this action and entry of final judgment without prejudice as regards plaintiff's claims of non-malignant pleural thickening.

¹U.S.C.A. 3rd Circuit Case No. 13-3219

6. Federal Rule of Civil Procedure 41(a)(2) provides for dismissal without prejudice upon motion and order of the court.

Prayer for Relief

Plaintiff prays this Court enter an order dismissing the claims in this case for non-malignant pleural thickening without prejudice and with each party bearing their own costs. The order should specify the ruling made on June 19, 2013 (ECF Doc. 200) granting partial summary judgment for lung cancer claims is not affected.

Dated: February 6, 2014

/S/ Robert G. McCoy

Robert G. McCoy

One of Plaintiff's Attorneys

Robert G. McCoy

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Certificate of Service

I hereby certify that on February 6, 2014, I caused the forgoing to be electronically filed with the United States District Court for the Eastern District of Pennsylvania using the CM/ECF system which will automatically send all necessary notifications of this filing to CM/ECF participants in this case.

Dated: February 6, 2014

/S/ Robert G. McCoy

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